IN THE CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI

Appeal No. C/1008/2012

(Arising out Order-in-Appeal No. 411 to 418 (Gr.IV)/2012 dated 27.08.2012 passed by the Commissioner of Customs (Appeals), Mumbai)

For approval and signature:
Hon'ble Mr C J Mathew, Member (Technical)
Hon'ble Ajay Sharma, Member (Judicial)

1.	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2.	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	No
3.	Whether Their Lordships wish to see the fair copy of the Order?	Seen
4.	Whether Order is to be circulated to the Departmental authorities?	Yes

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Commissioner of Customs, Nhava Sheva — Appellant

Vs.

M/s Kimitsu Trading India Pvt Ltd — Respondent

Appearance:

Shri Bhushan Kamble, AC (AR) for the appellant
None for the respondent

CORAM:
Hon'ble Mr C J Mathew, Member (Technical)
Hon'ble Ajay Sharma, Member (Judicial)

Date of hearing : 20-03-2019
Date of decision : 20-03-2019

O R D E R No: **A/85559 / 2019**

Per: C J Mathew

M/s Kimitsu Trading India Pvt Ltd had imported eight consignments of various 'MS steel products' from Japan for which bills of entry had been filed between 6th September 2011 and 22nd September 2011 and these were assessed to duty at the prescribed rates. Not being aware then of the availability of notification no. 69/2011-Cus dated 29th July 2011 for certain imports from Japan and finding subsequently that they were eligible, the importer appealed to Commissioner of Customs (Appeals), Jawaharlal Nehru Customs House, Nhava Sheva. The first appellate authority *vide* order-in-appeal no. 411 to 418 (Gr.IV)/2012 dated 27th August 2012, by placing reliance on the decision of the Tribunal in *Elegant Fabrics v. Commissioner of Customs, Chennai [2011 (263) ELT 623 (Tri-Chennai)]* and on the decision of the Hon'ble Supreme Court in *Share Medical Care v. Union of India [2007 (209) ELT 321 (SC)]*, allowed the benefit of the exemption to these imports. Aggrieved by that decision, the competent Committee of Commissioners had directed the filing of eight appeals including the present one which is now before us.

2. Learned Authorised Representative informs that seven of these, upon challenge by Revenue, had been decided *vide* order no. A/68 to

74/13/CSTB/C-I dated 31st December 2012 when the stay application itself was listed for disposal.

3. As none appeared for the respondent, we have gone through the records and find this submission to be correct. We also take note that the Tribunal, in *Commissioner of Customs (Import), Nhava Sheva v. M/s Kimitsu Trading India Pvt Ltd [Order no. A/68 to 74/13/CTSB/C-I dated 31st December 2012],* has held that

> *'5. We find that there is a clear recording in the impugned order that the respondent had produced certificate of origin as per the condition in the Notification no. 69/2011 and after examining the same, Commissioner (Appeals) directed the adjudicating authority to re-assess the Bills of Entry by giving the benefit under Notification no. 69/2011. In these circumstances, we do not find any infirmity in the impugned orders. Therefore, the same are upheld.'*

4. We find no reason to deviate from that decision. Appeal of Revenue is dismissed.

(Operative part pronounced in Court)

(Ajay Sharma)
Member (Judicial)

(C J Mathew)
Member (Technical)

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